

Sumter City-County Board of Zoning Appeals

July 11, 2012

BOA-12-31, 810 S. Pike West (City)

The applicant is requesting Special Exception approval for a Drinking Place as required per Article 3, Section 3.i.4.e Drinking Place (SIC 5813), Article 3, Exhibit 5 and Article 5 Section 5.b.3.m Special Design Review Criteria. The property is located at 810 S. Pike West and is represented by Tax Map # 230-16-03-025.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

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I. THE REQUEST

Applicant: Amilia Mattice

Status of the Applicant: Business Operator

Request: Special Exception approval for a Drinking Place, under SIC Code 5813.

Location: 810 S. Pike West

Present Use/Zoning: Intimidators Indoor Amusement Park/General Commercial (GC)

Tax Map Reference: 230-16-03-025

II. BACKGROUND

The applicant, is requesting approval to add on-premise consumption of beer and wine to the existing Intimidators Indoor Fun Park located at 810 S. Pike West, shown in the photograph below.



The addition of on-premise consumption at this location changes the use classification from an Indoor Amusement Park (SIC Code 7996) which is a permitted use in the General Commercial

(GC) zoning district, to a Drinking Place (SIC Code 5813). Under current City zoning regulations, Drinking Places must be reviewed and approved by the Zoning Board of Appeals as a Special Exception use.

As shown in the graphic below, the subject property is the site of a +/-53,700 sq. ft. metal building.



The structure currently houses the Intimidators Indoor Fun Park which takes up just under half of the floor area in the structure. The remaining 30,000 sq. ft. is a former go-kart track that is planned for use as an auction house but is currently not in use nor is it planned to be reused for a go-kart track. The site is non-conforming relative to curbing and landscaping, and the parking lot needs to be restriped to delineate the required parking spaces.

III. LAND USE & ZONING COMPATIBILITY

According to the Official Zoning Map for the City, the property is zoned as General Commercial (GC) and is located within the Highway Corridor Overlay District. The purpose of the GC zoning district is to accommodate the broadest possible range of commercial uses, determined

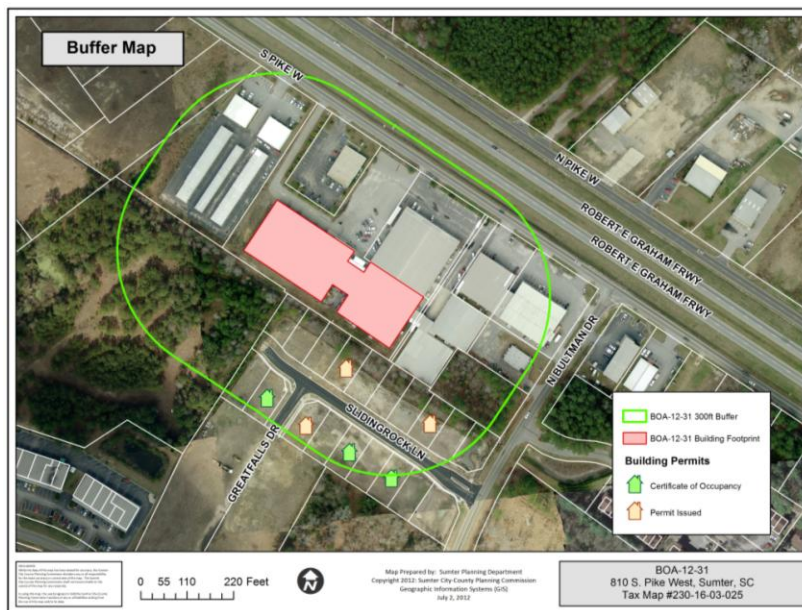
principally by market conditions, while protecting adjacent property owners from potentially objectionable uses.

Under the GC district, (Drinking Places, SIC Code 5813) are considered a Special Exception which requires the review and approval of the Sumter Board of Appeals. In particular, special exceptions for drinking places are to be evaluated in accordance with Article 1, Section 1.h.4.c and Article 3, Section 3.i.4.e and in accordance with Article 5, Section 5.b.3.m of the City Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.m Drinking Places (SIC Code 5813):

1. *This use shall not be within 300 feet (measured in a straight line from structure to structure) of a residential use (except in the portion of the Central Business District outlines in blue on the Sumter Central Business & Historic Preservation Downtown Design Review Map attached to this ordinance – see appendix D), church, school or public playground on a separately platted parcel.*
2. *A six-foot fence that is a visual screen will be installed to separate this use from residential uses (except in the Central Business District).*

The following can be determined based on 5.b.3.m:



1. Staff concludes the proposed location of the drinking place does not meet the Ordinance separation requirement of 300 ft. from structure to structure of a residential use, church, school or public playground on a separately platted parcel.
2. The 2011 aerial photograph to the left shows the subject property and adjacent properties. When combined with 2012 Building Permit Data, the map depicts a minimum of three dwellings that have received Certificates of Occupancy and three dwellings currently under construction, on separately platted parcels, within 300 ft. of the proposed drinking place:
3. No fence exists today on the rear (southern property line) adjacent to the most immediate residential use; however there is a tree line and a 30 ft. wide drainage ditch between the

Cascades Subdivision and the subject property. As shown in the photograph below, there is a thin tree line between Cascades Subdivision and the proposed business location.



Pictured Above: The tree line between Cascades Subdivision and 810 S. Pike West.

Article 1, Section 1.h.4.c Special Exceptions:

1. *Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.*
2. *Permits for Special Exceptions shall be evaluated by the Board of Zoning Appeals on the basis of the following criteria:*
 - a. *That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements;*
 - b. *That the special exception will be in substantial harmony with the area in which it is located;*
 - c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*

The following can be determined based on 1.h.4.c.2:

1. Overall, the site does not comply with the parking lot, bufferyards and landscaping requirements contained in the City Zoning Ordinance.

Notwithstanding the previous, the property was developed under the pre-1999 City Ordinance with different regulations for parking lots and bufferyards. In addition, the property has maintained an active business license since its inception. As a result, the

parking lot, landscaping and bufferyards are legal non-conforming features to the property.

Finally, if the special exception is granted, the applicant would be required to provide additional off-street parking in accordance with the Article 8, Exhibit 23 of the City Ordinance. This requires 1.2 parking spaces per 100 sq. ft. gross floor area (GFA). Although the current parking lot is not visibly striped, it can accommodate approximately 75 Ordinance compliant parking spaces. If a drinking place were to occupy the 23,205 sq. ft. portion of the structure, the required number of parking spaces would be 278 parking spaces.

2. Staff finds that the proposed Special Exception request is not in substantial harmony with the surrounding area based on the following conclusions:
 - a. The proposed special exception is within 300 ft. of at least six (6) dwellings that have been/are under construction and/or occupied with an additional ten (10) approved residential lots that have not been constructed.
 - b. Due to the potential increase in traffic and dramatic increase in parking required for the proposed use and the fact that sufficient parking space is not available to meet ordinance requirements, approval of this use could cause undue burden on adjacent developed parcels from an increased demand in parking.
3. Staff finds that the proposed Special Exception request will discourage or negate the use of surrounding property for use(s) permitted by right based on the following conclusions:
 - a. Special exception approval for a drinking place at this location will impact adjacent commercial uses due to an increased demand in parking in relation to the limited space available for on-site parking. Additionally, there could be negative consequences on the adjacent residential area to the immediate south. As previously stated, the purpose of the GC zoning district is to accommodate a wide variety of commercial uses while at the same time protecting the surrounding environment from potentially objectionable types of uses;

IV. STAFF RECOMMENDATION

Staff recommends denial of BOA-12-31, based upon the findings of fact and conclusions of law found in Exhibit 1.

V. DRAFT MOTIONS for BOA-12-31

- A. I move that the Sumter Board of Appeals deny BOA-12-31, subject to the findings of fact and conclusions contained in draft order, dated July 11, 2012 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals enter an alternative motion for BOA-12-31.

VI. ZONING BOARD OF APPEALS – July 11, 2012

The Sumter City-County Board of Appeals, at its meeting on Wednesday, July 11, 2012, voted to overturn the Zoning Administrator's classification of the proposed use. After a review of the pertinent facts, the Board found that the use proposed did not rise to the level of a full-fledged Drinking Place; that the addition of alcohol at the Indoor Amusement Park did not change the primary use. Therefore, the use classification does not require special exception approval.

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July 11, 2012

Permit Case No. BOA-12-31

After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the standards in Sections 5.b.3.m of the Sumter City Zoning & Development Standards Ordinance which are applicable to the proposed special exception of the Zoning Ordinance ☐ **have** - ☒ **have not** been met based on the following findings of fact:
 - a. The Board finds the proposed location of the drinking place does not meet the Ordinance separation requirement of 300 ft. from structure to structure of a residential use on a separately platted parcel.
 - b. The 2011 aerial photograph below shows the subject property and adjacent properties. When combined with 2012 Building Permit Data, the map depicts a minimum of three dwellings that have received Certificates of Occupancy and three dwellings currently under construction, on separately platted parcels, within 300 ft. of the proposed drinking place.



2. The Board concludes that the special exception ☐ **does** - ☒ **does not** comply with all applicable development standards contained elsewhere in the Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:

- a. Overall, the site does not comply with the parking lot, bufferyards and landscaping requirements contained in the City Zoning Ordinance.

Notwithstanding the previous, the property was developed under the pre-1999 City Ordinance with different regulations for parking lots and bufferyards. In addition, the property has maintained an active business license since its inception. As a result, the parking lot, landscaping and bufferyards are legal non-conforming features to the property.

Drinking places are required to provide off-street parking in accordance with the Article 8, Exhibit 23 of the City Ordinance. This requires 1.2 parking spaces per 100 sq. ft. gross floor area (GFA). Although the current parking lot is not visibly striped, it can accommodate approximately 75 Ordinance compliant parking spaces. In order for a drinking place to occupy the 23,205 sq. ft. portion of the structure, the required number of parking spaces is 278 parking spaces – there is not sufficient space within 400 ft. of this location to accommodate the additional required parking.

3. The Board concludes that the proposed special exception ☐ **will** - ☒ **will not** be in substantial harmony with the area in which it is located based on the following findings of fact:

- a. The proposed special exception is within 300 ft. of at least six (6) dwellings that have been/are under construction and/or occupied with an additional ten (10) approved residential lots that have not been constructed.
- b. Due to the potential increase in traffic and dramatic increase in parking required for the proposed use and the fact that sufficient parking space is not available to meet ordinance requirements, approval of this use could cause undue burden on adjacent developed parcels from an increased demand in parking.

4. The Board concludes the special exception ☒ **will** - ☐ **will not** discourage or negate the use of surrounding property for uses(s) permitted by right based on the following findings of fact:

- a. Special exception approval for a drinking place at this location will impact adjacent commercial uses due to an increased demand in parking in relation to the limited space available for on-site parking. Additionally, there could be negative consequences on the adjacent residential area to the immediate south. As previously stated, the purpose of the GC zoning district is to accommodate a wide variety of

commercial uses while at the same time protecting the surrounding environment from potentially objectionable types of uses;

THE BOARD, THEREFORE, ORDERS that the special exception is ☒ **DENIED** –
☐ **GRANTED**.

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.
